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Railroad Commission of Oregon

Public utility act of the state of Oregon

[Salem, Ore.?]

1912

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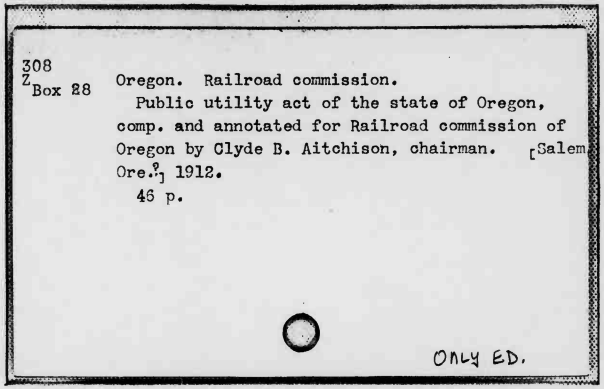
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PUBLIC UTILITY ACT

of the

STATE OF OREGON

Compiled and Annotated
for
RAILROAD COMMISSION OF OREGON
by
CLYDE B. AITCHISON
Chairman

1912

14 Feb 1916 75

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RAILROAD COMMISSION OF OREGON

CLYDE B. AITCHISON,
THOMAS K. CAMPBELL,
FRANK J. MILLER,
Commissioners.

Salem, Oregon, December, 1912.

NOTE.

The Oregon Public Utilities Act was enacted by the Legislative Assembly and appears as Chapter 279 of the Laws of 1911. Prior to the date the same would constitutionally become effective, ninety days after the adjournment of the session of the Legislative Assembly, a referendum petition thereon was filed in the office of the Secretary of State. The Utilities Act was thereby suspended in operation pending the vote of the people thereon. At the general election held November 5, 1912, the measure was submitted to the people, and was approved by a vote of 65,985 for and 40,956 against. The act thereupon immediately became effective.

The Oregon act is closely modelled upon a similar statute of the State of Wisconsin (Wisc., L. 1907, c. 499; Code §§ 1797m-1 to 1797m-108 inclusive). References have been given to the corresponding sections of the Wisconsin Act. Many provisions are similar to the Oregon Railroad Commission Act (L. 1907, c. 53, with its amendments).

The section numbers here given are those assigned the same sections in the compilation of "Constitutional and Statutory Provisions of the State of Oregon relating to Railroads, Common Carriers by Rail, and Public Utilities," issued by the Railroad Commission of Oregon in 1911. A table of comparative sections follows:

Laws of 1911	Here	Laws of 1911	Here
Chap. 279, § 1	480	Chap. 279, § 41	520
§ 2	481	§ 42	521
§ 3	482	§ 43	522
§ 4	483	§ 44	523
§ 5	484	§ 45	524
§ 6	485	§ 46	525
§ 7	486	§ 47	526
§ 8	487	§ 48	527
§ 9	488	§ 49	528
§ 10	489	§ 50	529
§ 11	490	§ 51	530
§ 12	491	§ 52	531
§ 13	492	§ 53	532
§ 14	493	§ 54	533
§ 15	494	§ 55	534
§ 16	495	§ 56	535
§ 17	496	§ 57	536
§ 18	497	§ 58	537
§ 19	498	§ 59	538
§ 20	499	§ 60	539
§ 21	500	§ 61	540
§ 22	501	§ 62	541
§ 23	502	§ 63	542
§ 24	504	§ 64	543
§ 25	504	§ 65	544
§ 26	505	§ 66	545
§ 27	506	§ 67	546
§ 28	507	§ 68	547
§ 29	508	§ 69	548
§ 30	509	§ 70	549
§ 31	510	§ 71	550
§ 32	511	§ 72	551
§ 33	512	§ 73	552
§ 34	513	§ 74	553
§ 35	514	§ 75	554
§ 36	515	§ 76	555
§ 37	516	§ 77	556
§ 38	517	§ 78	557
§ 39	518	§ 79	557*a*
§ 40	519		

§ 480. Term "Public Utility" Defined.

The term "public utility," as used herein, shall mean and embrace all corporations, companies, individuals, associations of individuals, their lessees, trustees or receivers (appointed by any court whatsoever), that now or hereafter may own, operate, manage or control, any plant or equipment or part of a plant or equipment in this State for the conveyance of telegraph or telephone messages, with or without wires, or for the transportation of persons or property by street railroad as common carriers, or for the production, transmission, delivery or furnishing of heat, light, water or power, and any and all whether either directly or indirectly to or for the public, and whether said plant or equipment or part thereof is wholly within any town or city, or not.

No plant owned or operated by a municipality shall be deemed a public utility under or for the purposes of this act. [L. 1911, c. 279, p. 483, § 1.]

Compare Wisc., § 1797*m*-1. (1)

§ 481. Term "Council" Defined.

The term "council," as used in this act, shall mean and embrace the common council, city council, commission, or any other governing body of any town, city or other municipal government wherein the property of the public utility or any part thereof is located. [L. 1911, c. 279, p. 483, § 2.]

Compare Wisc., § 1797*m*-1. (2)

§ 482. Term "Municipality" Defined.

The term "municipality," as used in this act, shall mean any town, city or other municipal government wherein property of the public utility or any part thereof is located. [L. 1911, c. 279, p. 484, § 3.]

Compare Wisc., § 1797*m*-1. (3)

§ 483. Term "Service" Defined.

The term "service," is used in this act in its broadest and most inclusive sense, and includes equipment and facilities. [L. 1911, c. 279, p. 484, § 4.]

Compare Wisc., § 1797*m*-1. (4)

§ 484. Term "Commission" Defined.

The term "commission," as used in this act, shall mean the Railroad Commission of Oregon. [L. 1911, c. 279, p. 484, § 5.]

Compare Wisc., § 1797*m*-1. (6)

§ 485. Jurisdiction of Railroad Commission to Supervise and Regulate Public Utilities.

The Railroad Commission of Oregon is vested with power and jurisdiction to supervise and regulate every public utility in this State, and to do all things necessary and convenient in the exercise of such power and jurisdiction. [L. 1911, c. 279, p. 484, § 6.]

Compare Wisc., § 1797*m*-2.

§ 486. Adequate Service and Reasonable Rates Required.

Every public utility is required to furnish adequate and safe service, equipment, and facilities, and the charges made by any public utility for any heat, light, water or power produced, transmitted, delivered or furnished, or for any telegraph or telephone message conveyed, or for any transportation of persons or property by street railroad, or for any service rendered or to be rendered in connection therewith shall be reasonable and just, and every unjust or unreasonable charge for such service is prohibited and declared to be unlawful. [L. 1911, c. 279, p. 484, § 7.]

Compare Wisc., § 1797*m*-3.

§ 487. Common User of Facilities, Compensation, Procedure and Appeal; Interchange of Business, Traffic or Product.

Every public utility, and every person, association or corporation having conduits, subways, street railway tracks, poles or other equipment on, over or under any street or highway shall for a reasonable compensation permit the use of the same by any public utility whenever public convenience or necessity require such use and such use will not result in irreparable injury to the owner or other users of such equipment nor in any substantial detriment to the service to be rendered by such owners or other users.

In case of failure to agree upon such use or the conditions or compensation for such use any public utility or any person, association or corporation interested may apply to the Commission, and if after investigation the Commission shall ascertain that public convenience or necessity require such use and that it would not result in irreparable injury to the owner or other users of such equipment, it shall by order direct that such use be permitted and prescribe reasonable conditions and compensation for such joint use.

Such use so ordered shall be permitted and such conditions and compensation so prescribed shall be the lawful conditions and compensation to be observed, followed and paid, subject to recourse to the courts upon the complaint of any interested party as provided in sections 54, 55, 56, 57, and 58, inclusive [L. 1911, c. 279, p. 497], and such sections so far as applicable shall apply to any suit arising on such complaint so made. Any such order of the commission may be from time to time revised by the commission upon application of any interested party or upon its own motion. All public utilities shall afford all reasonable facilities and make all necessary regulations for the interchange of business, or traffic carried or their product between them, when ordered by the commission so to do. [L. 1911, c. 279, p. 484, § 8.]

The sections named are §§ 533-537, *post*.
Compare Wisc., § 1797*m*-4.

§ 488. Commission to Value Property of Utilities.

The commission shall value all the property of every public utility actually used and useful for the convenience of the public. In making such valuation the commission may avail itself of any information in possession of the Board of State Tax Commissioners, or any other State officer or board. [L. 1911, c. 279, p. 485, § 9.]

Compare Wisc., § 1797*m*-5.

§ 489. Hearing and Determination of Value, Re-Valuation.

Before final determination of such value the commission shall, after notice to the public utility, hold a public hearing as to such valuation in the manner prescribed for hearing complaints as herein prescribed, and the provisions of this act relative to hearings on complaints on the commission's own motion so far as applicable shall apply to such hearing. The commission shall within five days after such valuation is determined serve a statement thereof upon the public utility interested, and shall file a like statement with the auditor, recorder or clerk of every municipality in which any part of the plant or equipment of such public utility is located. The commission may at any time on its own initiative make a re-valuation of such property, and may make a re-valuation upon the application of any public utility filed not less than six months after the service of such statement. [L. 1911, c. 279, p. 485, § 10.]

Compare Wisc., § 1797*m*-6, 7.

§ 490. Uniform Accounting by Utility.

Every public utility shall keep and render to the commission in the manner and form prescribed by the commission uniform accounts of all business transacted. All forms of accounts which may be prescribed by the commission shall conform as nearly as practicable to similar forms prescribed by federal

authority. Every public utility engaged directly or indirectly in any other business than that of the transportation of persons or property by street railroads or the production, transmission or furnishing of heat, light, water or power or the conveyance of telephone messages shall, if required by the commission, keep and render separately to the commission in like manner and form the accounts of all such other business, in which case all the provisions of this act shall apply with like force and effect to the books, accounts, papers and records of such other business. [L. 1911, c. 279, p. 485, § 11.]

Compare Wisc., § 1797*m*-8.

§ 491. Commission to Prescribe Forms for Accounts and Records; Other Books Shall Not Be Kept.

The commission shall prescribe the forms of all books, accounts, papers and records required to be kept, and every public utility is required to keep and render its books, accounts, papers and records accurately and faithfully in the manner and form prescribed by the commission and to comply with all directions of the commission relating to such books, accounts, papers and records. No public utility shall keep any other books, accounts, papers or records of its public utility business transacted than those prescribed or approved by the commission, except such as may be required by the laws of the United States. [L. 1911, c. 279, p. 486, § 12.]

Compare Wisc., § 1797*m*-9, 11.

§ 492. Commission to Furnish Suitable Blanks.

The commission shall cause to be prepared suitable blanks for reports for carrying out the purposes of this act, and shall, when necessary, furnish such blanks for reports to each public utility. [L. 1911, c. 279, p. 486, § 13.]

Compare Wisc., § 1797*m*-10.

§ 493. Office and Records of Utility Maintained in State.

Each public utility shall have an office in one of the towns or cities in this State in which its property or some part thereof is located, and shall keep in said office all such books, accounts, papers and records as shall be required by the commission to be kept within the State. No books, accounts, papers or records required by the commission to be kept within the State shall be at any time removed from the State, except upon such conditions, as may be prescribed by the commission. [L. 1911, c. 279, p. 486, § 14.]

Compare Wisc., § 1797*m*-12.

§ 494. Annual Balance Sheet, Filing.

The accounts shall be closed annually on the 30th day of June and a balance sheet of that date promptly taken therefrom. On or before the first day of August following, such balance sheet, together with such other information as the commission shall prescribe, verified by an officer of the public utility, shall be filed with the commission. [L. 1911, c. 279, p. 486, § 15.]

Compare Wisc., § 1797*m*-13.

§ 495. Audit of Accounts; Allocation of Items.

The commission shall provide for the examination and audit of all accounts, and all items shall be allocated to the accounts in the manner prescribed by the commission.

The agents, accountants or examiners employed by the commission shall have authority under the direction of the commission to inspect and examine any and all books, accounts, papers, records and memoranda kept by such public utilities. [L. 1911, c. 279, p. 486, § 16.]

Compare Wisc., § 1797*m*-14.

§ 496. Depreciation Accounts; Application of Funds.

Every public utility shall carry a proper and adequate depreciation account whenever the commission after investigation shall determine that such depreciation account can be reasonably required. The commission shall ascertain and determine what are the proper and adequate rates of depreciation of the several classes of property of each public utility. The rates shall be such as will provide the amounts required over and above the expenses of maintenance, to keep such property in a state of efficiency corresponding to the progress of the industry. Each public utility shall conform its depreciation accounts to such rates so ascertained and determined by the commission. The commission may make changes in such rates of depreciation from time to time as it may find to be necessary.

The commission shall also prescribe rules, regulations, and forms of accounts regarding such depreciation which the public utility is required to carry into effect.

The commission shall provide for such depreciation in fixing the rates, tolls and charges to be paid by the public.

All moneys thus provided for shall be set aside out of the earnings and carried in a depreciation fund. The moneys in this fund may be expended in replacements, new construction, extensions or additions to the property of such public utility, or invested, and if invested the income from the investments

shall also be carried in the depreciation fund. This fund and the proceeds thereof shall be used for no other purpose than as provided in this section and for depreciation. [L. 1911, c. 279, p. 487, § 17.]

Compare Wisc., § 1797*m*-15.

§ 497. New Constructions, Accounting.

The commission shall keep itself informed of all new construction, extensions and additions to the property of such public utilities, and shall prescribe the necessary forms, regulations and instructions to the officers and employees of such public utilities for the keeping of construction accounts, which shall clearly distinguish all operating expenses and new construction. [L. 1911, c. 279, p. 487, § 18.]

Compare Wisc., § 1797*m*-16.

§ 498. Reports by Utilities; Details.

Each public utility shall furnish to the commission in such form and at such times as the commission shall require, such accounts, reports, and information as shall show in itemized detail: (1) The depreciation per unit, (2) the salaries and wages separately per unit, (3) legal expenses per unit, (4) taxes and rentals separately per unit, (5) the quantity and value of material used per unit, (6) the receipts from residuals, by-products, services or other sales separately per unit, (7) the total and net cost per unit, (8) the gross and net profit per unit, (9) the dividends and interest per unit, (10) the surplus or reserve per unit, (11) the prices per unit paid by consumers; and in addition such other items, whether of a nature similar to those hereinbefore enumerated or otherwise, as the commission may prescribe in order to show completely and in detail the entire operation of the public utility in furnishing the unit of its product or service to the public. [L. 1911, c. 279, p. 487, § 19.]

Compare Wisc., § 1797*m*-18.

§ 499. Annual Report of Commission.

The annual report of the commission to the Governor shall show its proceedings under this act, and shall also show the details per unit as provided in section 19 hereof for all the public utilities of each kind in this State, together with such other facts and suggestions relative thereto as the commission shall deem advisable. The commission shall also publish in its annual reports the value of all property actually used and useful for the convenience of the public, of every public utility as to whose rates, charges, service or regulations any hearing has been held by the commission, or the value of whose property has been ascertained by it as provided in this act. [L. 1911, c. 279, p. 488, § 20.]

Section 19 mentioned is § 498, *ante*, of this compilation.
Compare Wisc., § 1797*m*-19.

§ 500. Units of Product or Service.

The commission shall ascertain and prescribe for each kind of public utility suitable and convenient standard commercial units of product or service. These shall be lawful units for the purposes of this act. [L. 1911, c. 279, p. 488, § 21.]

Compare Wisc., § 1797*m*-22.

§ 501. Standards for Measurement, Accurate Appliances.

The commission shall ascertain and fix adequate and serviceable standards for the measurement of quality, pressure, initial voltage or other conditions pertaining to the supply of the product or service rendered by any public utility and prescribe reasonable regulations for examination and testing of such product or service and for the measurement thereof. It shall establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurements, and every public utility is required to carry into effect all orders issued by the commission relative thereto. [L. 1911, c. 279, p. 488, § 22.]

Compare Wisc., § 1797*m*-23.

§ 502. Testing of Measuring Appliances, Fees.

The commission shall provide for the examination and testing of any and all appliances used for the measuring of any product or service of a public utility, and may provide by rule that no such appliance shall be installed and used for the measuring of any product or service of any public utility until the same has been examined and tested by the commission and found to be accurate. The commission shall declare and establish a reasonable fee governing the cost of such examination and test which shall be paid to the commission by the public utility.

The commission shall declare and establish reasonable fees for the testing of such appliances on the application of the consumer or user, the fee to be paid by the consumer or user at the time of his request, but to be repaid to the consumer or user by the commission and to be paid by the public utility if the appliance be found defective or incorrect to the disadvantage of the consumer or user beyond such reasonable limit as may be prescribed by the commission. All fees col-

lected under the provisions of this section shall be paid by the commission into the State Treasury.

The commission may purchase such materials, apparatus and standard measuring instruments for such examination and tests as it may deem necessary. [L. 1911, c. 279, p. 488, § 23.]

Compare Wisc., § 1797*m*-24, 25.

§ 503. Entry Upon Premises for Inspection or Test.

The commission, its agents, experts, examiners or inspectors shall have power to enter upon any premises occupied by any public utility for the purpose of making any inspection, examination, or test provided in this act, and to set up and use on such premises any apparatus and appliances and occupy reasonable space therefor. [L. 1911, c. 279, p. 489, § 24.]

Compare Wisc., § 1797*m*-26.

§ 504. Rate Schedules to Be Filed; Maximum Charges.

Every public utility shall file with the commission within a time to be fixed by the commission, schedules which shall be open to public inspection, showing all rates, tolls and charges which it has established, and which are in force at the time for any service performed by it within the State, or for any service in connection therewith or performed by any public utility controlled or operated by it. The rates, tolls and charges shown on such schedules shall not exceed the rates, tolls and charges in force January 1, 1911. [L. 1911, c. 279, p. 489, § 25.]

Compare Wisc., § 1797*m*-27.

§ 505. Rules and Regulations and Interstate Schedules to Be Filed.

Every public utility shall file with and as part of every such schedule all rules and regulations that in any manner affect the rates charged or to be charged for any service. Every public utility shall also file with the commission copies of interstate rate schedules and rules and regulations issued by it or to which it is a party. [L. 1911, c. 279, p. 489, § 26.]

Compare Wisc., § 1797*m*-28.

§ 506. Schedules Accessible to Public.

A copy of so much of said schedules as the commission shall deem necessary for the use of the public shall be printed in plain type and kept on file in every station or office of such public utility where payments are made by the consumers or users, open to the public, in such form and place as to be readily accessible to the public and as can be conveniently inspected. [L. 1911, c. 279, p. 489, § 27.]

Compare Wisc., § 1797*m*-29.

§ 507. Joint Rates, Filing and Publishing Schedules.

Where a schedule of joint rates or charges is or may be in force between two or more public utilities, such schedules shall in like manner be printed and filed with the commission, and so much thereof as the commission shall deem necessary for the use of the public shall be filed in every such station or office as provided in section 27 [Laws 1911, chapter 279, page 489]. [L. 1911, c. 279, p. 489, § 28.]

Section 27 is § 506, *ante*, of this compilation.
Compare Wisc., § 1797*m*-30.

§ 508. Changes in Schedules; Ten Days' Notice.

No change shall thereafter be made in any schedule, including schedules of joint rates, except upon ten days' notice to the commission, and all such changes shall be plainly indicated upon existing schedules, or by filing new schedules in lieu thereof ten days prior to the time the same are to take effect; *provided*, that the commission, upon application of any public utility, may prescribe a less time within which a reduction may be made. [L. 1911, c. 279, p. 490, § 29.]

Compare Wisc., § 1797*m*-31.

§ 509. Revised Schedules to Be Open to Public.

Copies of all new schedules shall be filed as hereinbefore provided in every station and office of such public utility where payments are made by consumers or users ten days prior to the time the same are to take effect, unless the commission shall prescribe a less time. [L. 1911, c. 279, p. 490, § 30.]

Compare Wisc., § 1797*m*-32.

§ 510. Charges Other Than as Specified in Printed Schedules Unlawful.

It shall be unlawful for any public utility to charge, demand, collect or receive a greater or less compensation for any service performed by it within the State or for any service in connection therewith than is specified in such printed schedules, including schedules of joint rates, as may at the time be in force, or to demand, collect or receive any rate, toll or charge not specified in such schedule. The rates, tolls and charges named therein shall be the lawful rates, tolls and charges until the same are changed as provided in this act. [L. 1911, c. 279, p. 490, § 31.]

Compare Wisc., § 1797*m*-33.

§ 511. Commission May Prescribe Changes in Form of Schedules.

The commission may prescribe such changes in the form in which the schedules are issued by any public utility as may

be found to be expedient. [L. 1911, c. 279, p. 490, § 32.]

Compare Wisc., § 1797*m*-34.

§ 512. Classification of Utility Service.

The commission shall provide for a comprehensive classification of service for each public utility, and such classification may take into account the quantity used, the time when used, the purpose for which used, and any other reasonable consideration. Each public utility is required to conform its schedules of rates, tolls and charges to such classification. [L. 1911, c. 279, p. 490, § 33.]

Compare Wisc., §1797*m*-35.

§ 513. Commission May Prescribe Rules of Procedure.

The commission shall have power to adopt and amend reasonable and proper rules and regulations relative to all inspections, tests, audits and investigations, and to adopt and publish reasonable and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings of public utilities and other parties before it, and any person may appear before the commission, and be heard, or may appear by attorney. All hearings shall be open to the public. [L. 1911, c. 279, p. 490, § 34.]

Compare Wisc., § 1797*m*-36.

§ 514. Inquiry Into Business Management of Utilities; Conference With Other Commissions.

The commission shall have authority to inquire into the management of the business of all public utilities, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from any public utility all necessary information to enable the commission to perform its duties. The commission may confer by correspondence, or by attending conventions, or otherwise with public utility commissioners of other states or the United States on any matter relating to the public utilities. [L. 1911, c. 279, p. 491, § 35.]

Compare Wisc., § 1797*m*-37.

§ 515. Inspection of Books and Papers.

The commission or any commissioner or any person or persons employed by the commission for that purpose shall, upon demand, have the right to inspect the books, accounts, papers, records and memoranda of any public utility, and to examine, under oath, any officer, agent or employee of such public utility in relation to its business and affairs. Any person

other than one of said commissioners, who shall make such demand shall produce a certificate under the seal of the commission showing his authority to make such inspection. [L. 1911, c. 279, p. 491, § 36.]

Compare Wisc., § 1797*m*-38.

§ 516. Production of Books and Papers; Process; Penalty.

The commission may require, by order or subpœna to be served on any public utility in the same manner that a summons is served in a civil action in the circuit court, the production within this State at such time and place as it may designate, of any books, accounts, papers or records kept by said public utility in any office or place without the State of Oregon, or verified copies in lieu thereof, if the commission shall so order, in order that an examination thereof may be made by the commission or under its direction. Any public utility failing or refusing to comply with any such order or subpœna shall, for each day it shall so fail or refuse, forfeit and pay into the State Treasury a sum of not less than $50 nor more than $500. [L. 1911, c. 279, p. 491, § 37.]

Compare Wisc., § 1797*m*-39.

§ 517. Employees of Commission.

The commission is authorized to employ such engineers, examiners, experts, clerks, accountants, inspectors and other assistants as it may deem necessary, at such rates of compensation as it may determine upon. [L. 1911, c. 279, p. 491, § 38.]

Compare Wisc., § 1797*m*-40.

§ 518. Appointment of Examiners, Hearings Before Single Commissioner or Examiner.

For the purpose of making any investigation which may be required or permitted by any law the commission shall have power to appoint, by an order in writing, an examiner, or agent whose duties shall be prescribed in such order. In the discharge of his duties such examiner or agent shall have every power whatsoever of an inquisitorial nature granted by this or any other act to the commission and the commissioners thereof and the same powers as a notary public with regard to the taking of depositions. Any investigation, inquiry or hearing which the commission has power to undertake or hold may be undertaken or held by or before any commissioner, examiner or agent of the commission. The decision of the commission shall be based upon its examination of all of the testimony and records in the matter investigated or heard. [L. 1911, c. 279, p. 491, § 39.]

Compare Wisc., § 1797*m*-41.

§ 519. Utilities to Furnish Commission With Information Required.

Every public utility shall furnish to the commission all information required by it to carry into effect the provisions of this act and shall make specific answers to all questions submitted by the commission.

Any public utility receiving from the commission any blanks with directions to fill the same, shall cause the same to be properly filled out so as to answer fully and correctly each question therein propounded, and in case it is unable to answer any question, it shall give a good and sufficient reason for such failure; and said answer shall be verified under oath by the president, secretary, superintendent or general manager of such public utility and returned to the commission at its office within the period fixed by the commission.

Whenever required by the commission, every public utility shall deliver to the commission any or all maps, profiles, contracts, reports of engineers, and all documents, books, accounts, papers and records or copies of any or all of the same, with a complete inventory of all its property, in such form as the commission may direct. [L. 1911, c. 279, p. 492, § 40.]

Compare Wisc., § 1797*m*-42.

§ 520. Complaint Against Utility by Patrons, Etc.

Upon a complaint made against any public utility by any mercantile, agricultural or manufacturing society, or by any body politic or municipal organization, or by any three persons, firms, corporations or associations, that any or all of the rates, tolls, charges or schedules or any joint rate or rates are in any respect unreasonable or unjustly discriminatory, or that any regulation, measurement, practice or act whatsoever affecting or relating to the production, transmission, delivery or furnishing heat, light or water or power or the conveyance of any telegraph or telephone message, or the transportation of persons or property by street railroad, or any service in connection therewith is in any respect unreasonable, insufficient or unjustly discriminatory, or that any service rendered by any public utility is inadequate or is not afforded, the commission shall proceed, with or without notice, to make such investigation as it may deem necessary or convenient. But no order affecting said rates, tolls, charges, schedules, regulations, measurements, practice or act complained of shall be entered by the commission without a formal hearing. [L. 1911, c. 279, p. 492, § 41.]

Compare Wisc., § 1797*m*-43.

§ 521. Notice of Complaint to Utility; Notice of Hearing.

The commission shall, prior to such formal hearing, notify the public utility complained of that complaint has been made,

and to answer the same, and at the same time or afterward, may proceed to set a time and place for a hearing and an investigation as hereinafter provided.

The commission shall give the public utility and the complainant, if any, ten days' notice of the time and place when and where such hearing and investigation will be held and such matters considered and determined. Both the public utility and complainant shall be entitled to be heard, and shall have process to enforce the attendance of witnesses. [L. 1911, c. 279, p. 493, § 42.]

Compare Wisc., § 1797*m*-44, 45.

§ 522. Commission to Prescribe Reasonable Rates and Regulations.

If, upon such investigation, any rates, tolls, charges, schedules or joint rates, shall be found to be unjust, unreasonable, insufficient or unjustly discriminatory, or to be preferential or otherwise in violation of any of the provisions of this act, the commission shall have power to fix and order substituted therefor such rate or rates, tolls, charges or schedules as shall be just and reasonable. If upon such investigation it shall be found that any regulation, measurement, practice, act, or service complained of is unjust, unreasonable, insufficient, preferential, unjustly discriminatory or otherwise in violation of any of the provisions of this act, or if it be found that any service is unsafe or inadequate or that any reasonable service cannot be obtained or is not afforded, the commission shall have power to substitute therefor such other regulations, measurements, practices, service or acts and to make such order respecting, and such changes in such regulations, measurements, practices, service or acts as shall be just and reasonable. [L. 1911, c. 279, p. 493, § 43.]

Compare Wisc., § 1797*m*-46.

§ 523. Separate Hearings on Complaint; Direct Damage to Complainant Not Essential.

The commission may, in its discretion, when a complaint is made of more than one rate or charge, order separate hearings thereon, and may consider and determine the several matters complained of separately, and at such times as it may prescribe. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant. [L. 1911, c. 279, p. 493, § 44.]

Compare Wisc., § 1797*m*-48.

§ 524. Investigation on Commission's Own Motion.

Whenever the commission shall believe that any rate or charge or schedule of rates or charges may be unreasonable or

unjustly discriminatory, or that any service is unsafe or inadequate or is not afforded or that an investigation of any matter relating to any public utility should for any reason be made, it may on its own motion, summarily investigate the same with or without notice. If, after making such investigation, the commission becomes satisfied that sufficient grounds exist to warrant a hearing being ordered to determine whether any rate or charge or schedule of rates or charges so investigated is unreasonable or unjustly discriminatory, or whether the service investigated is unsafe or inadequate or is not afforded, or that an investigation of any other matter relating to such public utilities should be made, it shall furnish such public utility interested a statement, notifying the public utility of the matters under investigation, which said statement shall be accompanied by a notice fixing a time and place for hearing upon such matters. Notice may likewise be given to other parties interested. Such notice of hearing shall be given at least ten days in advance of any hearing. Thereafter proceedings shall be had and conducted in reference to the matter investigated in like manner as though complaint had been filed with the commission relative to the matter investigated, and the same order or orders may be made in reference thereto as if such investigation had been made on complaint. [L. 1911, c. 279, p. 493, § 45.]

Compare Wisc., § 1797*m*-49, 50, 51.

§ 525. Utilities May Complain.

Any public utility may make complaint as to any matter affecting its own product or service with like effect as though made by any mercantile, agricultural or manufacturing society, body politic or municipal organization or by any ten persons, firms, corporations or associations. [L. 1911, c. 279, p. 494, § 46.]

Compare Wisc., § 1797*m*-52.

§ 526. Powers of Commissioners and Examiners as to Production of Testimony and Papers—Contempt Proceedings—Penalty.

Each of the commissioners, and every examiner or agent appointed, as herein provided, shall for the purposes mentioned in this act and for the purposes mentioned in chapter 53 of the Laws of Oregon for the year 1907, and sections 6928 and 6929 of Lord's Oregon Laws, as compiled and annotated by Hon. William Paine Lord and Richard Ward Montague, have the power to administer oaths, certify to official acts, issue notices in the name of the commission, issue subpœnas under his hand, compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony, and to take and receive testimony, conduct hearings and investigations, whether upon complaint or upon the commission's own motion.

In case of disobedience on the part of any person or persons to comply with any order of the commission or any commissioner, examiner or agent or any subpœna, or, on the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated before the commission, any commissioner, examiner or agent authorized as provided in section 39 [L. 1911, c. 279, p. 491], it shall be the duty of the circuit court of any county or the judge thereof, upon application of the commission, or any commissioner to compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpœna issued from such court or a refusal to testify therein. Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, tariffs, waybills, contracts, accounts, and documents, if in his power to do so, in obedience to the subpœna or lawful requirement of the commission, shall be guilty of a misdemeanor, and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than $100 nor more than $1,000, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. [L. 1911, c. 279, p. 494, § 47.]

L. 1907, c. 53, and L. O. L. §§ 6875-6945 are the Railroad Commission Act and amendments thereto. Section 39 of the Public Utilities Act is § 518, *ante*.

Compare Wisc., § 1797*m*-53.

§ 527. Witness Fees and Mileage.

Each witness who shall appear before the commission or its agent by its order, shall receive for his attendance the fees and mileage now provided for witnesses in civil cases in courts of record, which shall be audited and paid by the State in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers sworn to by such witnesses and approved by the commission; *provided*, no witnesses shall be entitled to receive double mileage fees.

No witness subpœnaed at the instance of parties other than the commission shall be entitled to compensation from the State for attendance or travel unless the commission shall certify that his testimony was material to the matter investigated. [L. 1911, c. 279, p. 495, § 48.]

Compare Wisc., § 1797*m*-54.

§ 528. Descriptions.

The commission or any party may, in any investigation, cause the depositions of witnesses residing within or without

the State to be taken in the manner prescribed by law for like depositions in civil suits in the circuit court. [L. 1911, c. 279, p. 495, § 49.]

Compare Wisc., § 1797*m*-55.

§ 529. Record of Proceedings and Testimony—Transcript Received in Evidence.

A full and complete record shall be kept of all proceedings had before the commission or any commissioner, examiner or agent on any investigation, and all testimony shall be taken down by the stenographer appointed by the commission. Whenever any complaint is served upon the commission under the provisions of section 54 [L. 1911, c. 279, p. 497], the commission shall, before said suit is reached for trial, cause a certified transcript of all proceedings had and testimony taken upon such investigation to be filed with the county clerk of the county where the action is pending. A transcribed copy of the evidence and proceedings, or any specific part thereof on any investigation, taken by the stenographer appointed by the commission, being certified by such stenographer to be a true and correct transcript in long hand of all the testimony on the investigation, or of a particular witness, or of other specific parts thereof, carefully compared by him with his original notes, and to be a correct statement of the evidence and proceedings had on such investigation so purporting to be taken and transcribed, shall be received in evidence with the same effect as if said evidence had been given and said proceedings had upon the trial in which said transcript or any part thereof is offered. [L. 1911, c. 279, p. 495, § 50.]

Compare Wisc., § 1797*m*-57, 58.

§ 530. Commission to Order Substitution of Reasonable Rates and Service, Taking Effect of Order.

Whenever, upon an investigation made under the provisions of this act, the commission shall find any existing rate or rates, or any schedule of rates, tolls, charges, joint rate or joint rates to be unjust, unreasonable, insufficient or unjustly discriminatory, or to be preferential or otherwise in violation of any of the provisions of this act, the commission shall determine and by order fix reasonable rate or rates, schedule of rates, tolls, charges or joint rates to be imposed, observed and followed in the future in lieu of those found to be unjust, unreasonable, insufficient or unjustly discriminatory or preferential or otherwise in violation of any of the provisions of this act.

Whenever, upon an investigation made under the provisions of this act, the commission shall find any regulations, measurements, practices, acts or service to be unjust, unreasonable, insufficient, preferential, unjustly discriminatory, or otherwise in violation of any of the provisions of this act; or shall find that any service is unsafe or inadequate or that any service which can be reasonably demanded is not afforded, the commission shall determine and declare and by order fix reasonable measurements, regulations, acts, practices or service to be furnished, imposed, observed and followed in the future in lieu of those found to be unjust, unreasonable, insufficient, preferential, unjustly discriminatory, unsafe, inadequate, or otherwise in violation of this act, as the case may be, and shall make such other order respecting such measurement, regulation, act, practice or service as shall be just and reasonable. The commission shall cause a certified copy of all such orders to be delivered to an officer or agent of the public utility affected thereby, and all such orders shall of their own force take effect and become operative twenty days after service thereof, unless a different time be provided by said order. The commission may provide by rule that any public utility affected by any order shall within a time to be fixed by the commission, notify the commission whether the terms of the order are accepted and will be obeyed. [L. 1911, c. 279, p. 496, § 51.]

Compare Wisc., § 1797-*m*-60 (1) (2) (4).

§ 531. Revision and Amendment of Orders.

The commission may at any time, upon notice to the public utility and after opportunity to be heard as provided in section 42 [L. 1911, c. 279, p. 493], rescind, alter or amend any order fixing any rate or rates, schedule of rates, tolls, charges, or any other order made by the commission, and certified copies of the same shall be served and take effect as herein provided for original orders. [L. 1911, c. 279, p. 497, § 52.]

Section 42 named is § 521 of this compilation.
Compare Wisc., § 1797*m*-62.

§ 532. Orders Enforced Until Set Aside; Prima Facie Lawful and Reasonable.

All rates, tolls, charges, schedules and joint rates fixed by the commission shall be in force and shall be *prima facie* lawful, and all regulations, practices and services prescribed by the commission shall be in force and shall be *prima facie* lawful and reasonable until found otherwise in a suit brought for that purpose pursuant to the provisions of sections 54, 55, 56 and 57 of this act. [L. 1911, c. 279, p. 497, § 53.]

The sections enumerated are §§ 533-6, *post*.
Compare Wisc., § 1797*m*-63.

§ 533. Suits to Set Aside Orders, Procedure, Precedence in Hearing, Burden of Proof.

Any public utility or other person, persons or corporation interested in or affected by any order of the commission fixing any rate or rates, tolls, charges, schedules, classifications, joint rate or rates, or any order fixing any regulations, practices, act or service, being dissatisfied therewith, may commence a suit in the circuit court of the county in which the hearing was held, against the commission as defendant to vacate and set aside any such order or specified portion thereof on the ground that the order or portion thereof is unlawful, in which suit a copy of the complaint shall be served with the summons as in a suit in equity. The commission shall serve and file its answer to said complaint within ten days after the service thereof, whereupon said suit shall be at issue and stand ready for trial upon ten days' notice by either party. All suits brought under this section shall have precedence over any civil cause of a different nature pending in said court, and the circuit court shall always be deemed open for the trial thereof, and the same shall be tried and determined as a suit in equity. Every such suit to set aside, vacate or amend any determination or order of the commission or to enjoin the enforcement thereof or to prevent in any way such order or determination from becoming effective, shall be commenced, and every appeal to the courts or right or recourse to the courts shall be taken or exercised within ninety days after the entry or rendition of such order or determination, and the right to commence any such action, proceeding or suit, shall terminate absolutely at the end of such ninety days after such entry or rendition thereof. [L. 1911, c. 279, p. 497, § 54.]

Compare Wisc., § 1797*m*-64, 65.

§ 534. Suspension or Stay of Order Pending Suit to Set Aside Order, Terms and Bond.

After the commencement of such suit the circuit court may for cause shown, upon application to the circuit court or presiding judge thereof, and upon notice to the commission and hearing, suspend or stay the operation of the order of the commission complained of until the final disposition of such suit, upon the giving of such bond or other security, and upon such conditions as the court may require; and if such order of injunction suspends the order or requirement of the commission fixing rates, then the court shall require a bond with good and sufficient surety, conditioned that the public utility or public utilities applying for such injunction shall answer

for all damages caused by the delay in the enforcement of the order of the commission, and all compensation for whatever sums any person or corporation shall be compelled to pay in excess of the sums such person or corporation would have been compelled to pay if the order of the commission had not been suspended; and such bond shall cover the periods transpiring from time of the issuance of any such injunction until the final determination of the question litigated. The said bond shall be executed in favor of the Railroad Commission of Oregon for the benefit of whom it may concern, and shall be enforceable by said commission or any person interested, in an appropriate proceeding. Any person paying charges found to be excessive shall have a claim for the excess, whether paid under protest or not, and unless refunded within thirty days after written demand made after final judgment, may recover the same by action against such public utility, or such public utility and the sureties on such bond. Claims of persons for money collected in excess of the amount payable under the rate or rates established by the commission shall be assignable in the same manner as any chose in action. No appeal to the Supreme Court shall stay the operation of any order of the commission unless the circuit or Supreme Court shall so direct, and unless the public utility so appealing shall give a bond with like conditions and terms as that given on granting injunctions suspending an order of the commission fixing rates. [L. 1911, c. 279, p. 497, § 55.]

Compare Wisc., § 1797*m*-66.

§ 535. Reconsideration by Commission When New Evidence Introduced.

If, upon the trial of such suit, evidence shall be introduced by the plaintiff which is found by the court to be different from that offered upon the hearing before the commission or additional thereto, the court before proceeding to render judgment, unless the parties to such suit stipulate in writing to the contrary, shall transmit a copy of such evidence to the commission and shall stay further proceedings in said action for fifteen days from the date of such transmission. Upon the receipt of such evidence the commission shall consider the same, and may alter, modify, amend or rescind its order relating to such rate or rates, fares, charges, classification, joint rate or rates, regulation, practice, service or equipment complained of in said action, and shall report its action thereon to said court within ten days from the receipt of such evidence.

If the commission shall rescind its order complained of the suit shall be dismissed; if it shall alter, modify or amend the

same, such altered, modified or amended order shall take the place of the original order complained of, and judgment or decree shall be rendered thereon, as though made by the commission in the first instance. If the original order shall not be rescinded or changed by the commission, judgment or decree shall be rendered upon such original order. [L. 1911, c. 279, p. 498, § 56.]

Compare Wisc., § 1797*m*-67, 68.

§ 536. Appeal to Supreme Court, Precedence Upon Calendar.

Either party to said suit, within sixty days after the entry of the judgment or decree of the circuit court, may appeal to the Supreme Court. Where an appeal is taken the cause shall, on the return of the papers to the Supreme Court, be immediately placed on the calendar of the then pending term, and shall be assigned and brought to a hearing in the same manner as other cases on the calendar, but shall have precedence over civil causes of a different nature pending in said court. [L. 1911, c. 279, p. 499, § 57.]

Compare Wisc., § 1797*m*-69.

§ 537. Procedure as in Civil Actions; Burden of Proof of Unlawfulness or Unreasonableness.

In all suits, actions and proceedings in court arising under this act all processes shall be served and the practice and rules of evidence shall be the same as in civil actions, except as otherwise in this act provided.

In all trials, actions, suits and proceedings arising under the provisions of this act, or growing out of the exercise of the authority and powers granted herein to the commission, the burden of proof shall be upon the party adverse to such commission or seeking to set aside any determination, requirement, direction or order of said commission, to show by clear and satisfactory evidence that the determination, requirement, direction or order of the commission complained of is unreasonable or unlawful as the case may be. [L. 1911, c. 279, p. 499, § 58.]

Compare Wisc., § 1797*m*-70, 71.

§ 538. Incriminating Evidence; Immunity Does Not Extend to Corporation.

No person shall be excused from testifying or from producing books and papers in any proceedings based upon or growing out of any violation of the provisions of this act on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to penalty or forfeiture, but no person having so testified shall be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter or thing concerning which he may have testified or produced any documentary evidence; *provided*, that no person so testifying shall be exempted from prosecution or punishment for perjury in so testifying; *and provided*, the immunity hereby conferred shall extend only to a natural person who, in obedience to a subpœna, gives testimony under oath or produces evidence, documentary or otherwise, under oath. [L. 1911, c. 279, p. 499, § 59.]

Compare Wisc., § 1797*m*-72.

§ 539. Certified Copies of Orders Furnished.

Upon application of any person the commission shall furnish certified copies, under the seal of the commission, of any order made by it, which shall be *prima facie* evidence of the facts stated therein. [L. 1911, c. 279, p. 500, § 60.]

Compare Wisc., § 1797*m*-73.

§ 540. Power of Municipality to Regulate Utilities; Appeal.

Every municipality shall have power—

(1) To determine by contract, ordinance or otherwise the quality and character of each kind of product or service to be furnished or rendered by any public utility furnishing any product of service within said municipality and all other terms and conditions not inconsistent with this act upon which such public utility may be permitted to occupy the streets, highways or other public property within such municipality, and such contract, ordinance or other determination of such municipality shall be in force and *prima facie* reasonable. Upon complaint made by such public utility or by any qualified complainant as provided in section 41 [L. 1911, c. 271, p. 492], the commission shall set a hearing as provided in section 42 and if it shall find such contract, ordinance or other determination to be unreasonable, such contract, ordinance or other determination shall be void; *provided, however*, that no ordinance or other municipal regulation shall be reviewed by the commission under the provisions of this section which was prior to such review enacted by the initiative or which was prior to such review referred to and approved by the people of said municipality, or while a referendum thereon is pending.

(2) To require of any public utility by ordinance or otherwise such modifications, additions and extensions to its physical equipment, facilities or plant or service within said muni-

cipality as shall be reasonable and necessary in the interest of the public, and to designate the location and nature of all such additions and extensions, the time within which they must be completed, and all conditions under which they must be constructed subject to review by the commission as provided in this section.

(3) To provide for a penalty for non-compliance with the provisions of any ordinance or resolution adopted pursuant to the provisions hereof.

(4) The power and authority granted in this section shall exist and be vested in said municipalities, anything in this act to the contrary notwithstanding. [L. 1911, c. 279, p. 500, § 61.]

Sections 41-2 mentioned are §§ 520-1 of this compilation.
Compare Wisc., § 1797*m*-87.

§ 541. Passes, Franks and Privileges Denied Political Committees and Candidates—Penalty.

No public utility or any agent or officer thereof, or any agent or officer of any municipality constituting a public utility, as defined in this act, shall offer or give for any purpose to any political committee or any member or employee thereof to any candidate for or incumbent of any office or position under the constitution or laws or under any ordinance of any municipality of this State, or to any person at the request, or for the advantage of all or any of them, any pass, reduced rate, frank or any privilege withheld from any person for any transportation, product or service produced, transmitted, delivered, furnished or rendered, or to be transported, produced, transmitted, delivered, furnished or rendered by any public utility, or the conveyance of any telephone message or communication or any free produce or service whatsoever.

No political committee and no member or employee thereof, no candidate for and no incumbent of any office or position under the constitution or laws or under any ordinance of any town or municipality of this State, shall ask for or accept from any public utility or any agent or officer thereof, or any agent or officer of any municipality constituting a public utility, as defined in this act, or use in any manner or for any purpose any pass, reduced rate, frank or privilege withheld from any person, for any transportation product or service produced, transmitted, delivered, furnished or rendered, or to be produced, transmitted, delivered, furnished or rendered by any public utility, or the conveyance of any telephone message or communication. Any violation of any of the provisions of this section shall be punished by imprisonment in the State penitentiary not more than five years nor less than one year

or by fine not exceeding $1,000 nor less than $200, or by both such fine and imprisonment. [L. 1911, c. 279, p. 501, § 62.]

Compare Wisc., § 1797*m*-82.

§ 542. Unjust Discrimination, Prohibited; Definition—Penalty—Permissible Free or Reduced Rate Service.

If any public utility or any agent or officer thereof shall, directly or indirectly, by any device whatsoever or otherwise, charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be rendered by it in or effecting it relating to the transportation of persons or property by street railroad, or to the production, transmission, delivery or furnishing of heat, light, water or power or the conveyance of telegraph or telephone messages or for any service in connection therewith than that prescribed in the public schedules or tariffs then in force or established as provided therein, or than it charges, demands, collects or receives from any other person, firm or corporation for a like and contemporaneous service under substantially similar circumstances, such public utility shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful, and upon conviction thereof shall forfeit and pay into the State treasury not less than $100 nor more than $1,000 for each offense; and such agent or officer so offending shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than $50 nor more than $100 for each offense; *provided*, that this provision shall not be construed to prohibit the privilege of passes or franks or the exchange thereof with each other for the officers, agents, employees and their families of street railroads, telegraph, telephone and cable lines, and the officers, agents, employees and their families of other street railroads, telegraph, telephone and cable lines and with the officers, employees and their families of railroad, express and sleeping car lines, union depots and other common carriers; *provided, however*, that nothing in this act shall be construed to prevent telephone, telegraph and cable companies from entering into contracts with common carriers for the exchange of services. Nothing herein shall prevent the transportation of persons or property or the production, transmission, delivery or furnishing of heat, light, water or power, or the conveying of telegraph or telephone messages within this State free or at reduced rates for the United States, the State, or any municipality thereof, or for charitable purposes, or to employees of any such public utility for their own exclusive use and benefit, nor prevent any such public utility from giving

free transportation or service, or reduced rates therefor, to its officers, agents, surgeons, physicians, employees and attorneys at law, or members of their families, or to former employees to such public utilities or members of their families where such former employees have become disabled in the service of such public utility or are unable from physical disqualification to continue in the service, or to members of families of deceased employees of such public utility; to ministers of religion, inmates of hospitals and charitable and eleemosynary institutions and persons exclusively engaged in charitable and eleemosynary work. The commission may in its discretion require to be filed with it by any public utility a list, verified under oath of the president, manager, superintendent or secretary of any public utility, of all free or reduced rate privileges granted by such public utility under the provisions of this section. [L. 1911, c. 279, p. 501, § 63.]

Compare Wisc., § 1797*m*-89.

§ 543. Facilities in Exchange for Less Compensation Prohibited; Exceptions.

It shall be unlawful for any public utility to demand, charge, collect, or receive from any person, firm or corporation less compensation for any service rendered or to be rendered by said public utility in consideration of the furnishing by said person, firm or corporation of any part of the facilities incident thereto; *provided*, nothing herein shall be construed as prohibiting any public utility from renting any facilities incident to the transportation of persons or property by street railroad, or to the production, transmission, delivery or furnishing of heat, light, water or power or the conveyance of telephone messages and paying a reasonable rental therefor, or as requiring any public utility to furnish any part of such appliances which are situated in and upon the premises of any consumer or user, except telephone station equipment upon the subscriber's premises, and unless otherwise ordered by the commission meters and appliances for measurements of any product or service. [L. 1911, c. 279, p. 503, § 64.]

Compare Wisc., § 1797*m*-90 (amendment in Wisc., L. 1909, c. 213).

§ 544. Undue Preferences Prohibited; Penalty—Existing Contracts Respected.

If any public utility shall make or give any undue or unreasonable preference or advantage to any particular person, firm, or corporation, or to any particular locality, or shall subject any particular person, firm, corporation or locality to any undue or unreasonable prejudice or advantage in

any respect whatsoever, such public utility shall be deemed guilty of unjust discrimination which is hereby prohibited and declared unlawful. Any person, firm or corporation convicted of violating any of the provisions of this section shall forfeit and pay into the State treasury not less than $100 nor more than $10,000 for each offense; and any agent or officer of any public utility, person, firm or corporation so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than $100 nor more than $1,000 for each offense. [L. 1911, c. 279, p. 503, § 65.]

Compare Wisc., § 1797*m*-91.

§ 545. Rebates, Concessions and Discriminations Prohibited; Penalty.

It shall be unlawful for any person, firm or corporation knowingly to solicit, accept or receive any rebate, concession or discrimination in respect to any service in or affecting or relating to the transportation of persons by street railroad, or to production, transmission, delivery or furnishing of heat, light, water or power or the conveying of telegraph or telephone messages within this State, or for any service in connection therewith whereby any such service shall, by any device whatsoever, or otherwise, be rendered free or at a less rate than that named in the published schedules and tariffs in force as provided herein, or whereby any service or advantage is received other than is herein specified. Any person, firm or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than $50 nor more than $1,000 for each offense. [L. 1911, c. 279, p. 503, § 66.]

Compare Wisc., § 1797*m*-92.

§ 546. Treble Damages for Violation of Act by Public Utility; Attorney's Fees; Statute Penalty Not Affected by Civil Damages.

If any public utility shall do or cause to be done or permit to be done any matter, act or thing in this act prohibited, or declared to be unlawful, or shall omit to do any act, matter or thing required to be done by it, such public utility shall be liable to the person, firm or corporation injured thereby in treble the amount of damages sustained in consequence of such violation, together with a reasonable counsel's or attorney's fee to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case; *provided*, that any recovery as in this section provided shall in no manner affect recovery by the

State of the penalty prescribed for such violation. [L. 1911, c. 279, p. 504, § 67.]

Compare Wisc., § 1797*m*-93.

§ 547. Information, Papers and Accounting Denied Commission—Penalty.

Any officer, agent or employee of any public utility who shall fail or refuse to fill out and return any blanks as required by this act, or shall fail or refuse to answer any question therein propounded, or shall knowingly or willfully give a false answer to any such question or shall evade the answer to any such question where the fact inquired of is within his knowledge or who shall, upon proper demand, fail or refuse to exhibit to the commission or any commissioner or any person authorized to examine the same, any book, paper, account, record, or memorandum of such public utility which is in his possession or under his control, or who shall fail to properly use and keep his system of accounting or any part thereof as prescribed by the commission, or who shall refuse to do any act or thing in connection with such system of accounting when so directed by the commission or its authorized representative, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $1,000 for each offense. A penalty of not less than $500 nor more than $1,000 shall be recovered from the public utility for each such offense when such officer, agent or employee acted in obedience to the direction, instruction or request of such public utility or any general officer thereof. [L. 1911, c. 279, p. 504, § 68.]

Compare Wisc., § 1797*m*-94.

§ 548. Violations of Act in General; Penalties—Utility Held Responsible for Agents.

If any public utility shall violate any provisions of this act, or shall do any act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it for which a penalty has not been provided, or shall fail, neglect or refuse to obey any lawful requirement, order made by the commission or council, or any judgment or decree made by any court upon the application of the commission, for every such violation, failure or refusal, such public utility shall forfeit and pay into the State treasury a sum of not less than $100 nor more than $10,000 for such offense. In construing and enforcing the provisions of this section, the act, omission or failure of any officer, agent or other person acting for or employed by any public utility acting within the scope of his employment, shall in every case

be deemed to be the act, omission or failure of such public utility. All penalties, fines or forfeitures or other sums collected or paid under the provisions of this act, shall be paid into the general fund of the State treasury except where it is provided the same shall be paid to the aggrieved party. [L. 1911, c. 279, p. 504, § 69.]

Compare Wisc., § 1797*m*-95.

§ 549. Interference With Commission's Equipment; Penalty.

Any person who shall destroy, injure, or interfere with any apparatus or appliance owned or operated by or in charge of the commission or its agent, or any apparatus or appliance sealed by it, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine not exceeding $100 or imprisonment for a period not exceeding thirty days or both. Any public utility knowingly permitting the destruction, injury to, or interference with any such apparatus or appliance, or with the seal affixed to any apparatus or appliance by direction of the commission, shall forfeit a sum not exceeding $1,000 for each such offense. [L. 1911, c. 279, p. 505, § 70.]

Compare Wisc., § 1797*m*-97.

§ 550. Temporary Alteration or Suspension of Rates.

The commission shall have power, when deemed by it necessary to prevent injury to the business or interests of the people or any public utility of this State in case of any emergency to be judged of by the commission, to temporarily alter, amend, or with the consent of the public utility concerned, suspend any existing rates, schedules and order relating to or affecting any public utility or part of any public utility in this State. Such rates so made by the commission shall apply to one or more of the public utilities in this State or to any portion thereof as may be directed by the commission, and shall take effect at such time and remain in force for such length of time as may be prescribed by the commission. [L. 1911, c. 279, p. 505, § 71.]

Compare Wisc., § 1797*m*-99.

§ 551. Unreasonable Rates, Practices and Services not Specifically Designated May Be Regulated.

Whenever, after hearing an investigation as provided in this act, the commission shall find that any rate, toll, charge, regulation or practice for, in, or affecting or relating to the transportation of persons or property by street railroad, or to production, transmission, delivery or furnishing of heat, light, water or power or the conveying of any telephone or telegraph

message or any service in connection therewith not hereinbefore specifically designated, is in any respect unsafe, inadequate, unreasonable or unjustly discriminatory, it shall have the power to regulate the same as provided in sections 41 to 46 [L. 1911, c. 279, p. 492] inclusive. [L. 1911, c. 279, p. 505, § 72.]

Sections 41-46 mentioned are §§ 520-5 of this compilation.
Compare Wisc., § 1797*m*-100.

§ 552. Investigation of Accidents.

Every public utility shall, whenever an accident attended with loss of human life occurs within this State upon its premises, or directly or indirectly arises from or connected with its maintenance or operation, give immediate notice thereof to the commission. In the event of any such accident the commission, if it deem the public interest require it, shall cause an investigation to be made forthwith, which investigation shall be held in the locality of the accident, unless for greater convenience of those concerned it shall order such investigation to be held at some other place; and said investigation may be adjourned from place to place as may be found necessary and convenient. The commission shall seasonably notify the public utility of the time and place of the investigation. [L. 1911, c. 279, p. 506, § 73.]

Compare Wisc., § 1797*m*-101.

§ 553. Enforcement of Laws as to Public Utilities; Duties of Attorney General Prosecuting Attorneys and Counsel.

The commission shall inquire into any neglect or violation of any law of this State or any law or ordinance of any municipality thereof by any public utility corporation doing business therein, or by the officers, agent, or employees thereof, or by any person operating a public utility, and shall have the power, and it shall be its duty to enforce the provisions of this act, as well as all other laws relating to public utilities and report all violations thereof to the Attorney General. Upon the request of the commission it shall be the duty of the Attorney General or the prosecuting attorney of the proper county to aid in any investigation, hearing or trial had under the provisions of this act, and to institute and to prosecute all necessary suits, actions or proceedings for the enforcement of this act or the recovery of penalties payable to the State or the enforcement of any law of this State or any law or ordinance of any municipality thereof relating to public utilities, and for the punishment of all violations thereof. Any forfeiture or penalty herein provided shall be recovered by an action brought

thereon in the name of the State of Oregon in any court of appropriate jurisdiction. The commission shall have authority to employ counsel and to fix their duties and compensation. [L. 1911, c. 279, p. 506, § 74.]

Compare Wisc., § 1797*m*-102.

§ 554. Substantial Compliance With Acts Sufficient; Technical Omissions Immaterial; Liberal Construction.

A substantial compliance with the requirements of this act shall be sufficient to give effect to all the rules, orders, acts, and regulations of the commission, and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto. The provisions of this act shall be liberally construed with a view to the public welfare, efficient facilities, and substantial justice between patrons and public utilities. [L. 1911, c. 279, p. 506, § 75.]

Compare Wisc., § 1797*m*-103.

§ 555. Other Rights of Action Not Released or Waived; Penalties Cumulative; Duties and Liabilities Same as at Common Law.

This act shall not have the effect to release or waive any right of action by the State or by any municipality thereof or by any person for any right, penalty or forfeiture which may have arisen or which may hereafter arise under any law of this State or under any law or ordinance of any municipality thereof; and all penalties and forfeiture accruing under this act shall be cumulative and a suit for, and recovery of one, shall not be a bar to the recovery of any other penalty. The duties and liabilities of public utilities shall be the same as at common law and the remedies against them the same, except where otherwise provided by the constitution or statutes of this State, and the provisions of this act are cumulative thereto. [L. 1911, c. 279, p. 507, § 76.]

Compare Wisc., § 1797*m*-104.

§ 556. Rates of January 1, 1911, to Govern as Maximum Unless Otherwise Ordered; Proceedings to Change.

Except as in this act provided, and unless the commission shall otherwise order, it shall be unlawful for any public utility within this State to demand, collect or receive a greater compensation for any service than the charge fixed on the lowest schedule of rates for the same service on the first day of January, 1911. Every public utility in this State shall, within a time to be fixed by the commission, file in the office of the commission, copies of all schedules of rates and charges including joint rates, in force on the first day of January, 1911,

and all rates in force at any time subsequent to said date. Any public utility desiring to advance or discontinue any such rate or rates may make application to the commission in writing stating the advance in or discontinuance of the rate or rates desired, giving the reasons for such advance or discontinuation. Upon receiving such application the commission shall fix a time and place for hearing and give such notice to interested parties as it shall deem proper and reasonable. If, after such hearing and investigation, the commission shall find that the change or discontinuation applied for is reasonable, fair and just, it shall grant the application either in whole or in part. Any public utility being dissatisfied with any order of the commission made under the provisions of this section may commence a suit against it in the circuit court in the manner provided in section 54 [L. 1911, c. 279, p. 497], which suit shall be tried and determined in the same manner as is provided for suits brought under said section 54. [L. 1911, c. 279, p. 507, § 77.]

Section 54 mentioned is § 533 of this compilation, *ante*.
Compare Wisc., § 1797*m*-105.

§ 557. Expenses of Commission and Employees, Offices, Supplies.

The agents, experts, engineers, accountants, inspectors, examiners or assistants provided for in this act shall be appointed by the commission and the commission shall fix their compensation. The commission shall be provided by the Secretary of State with necessary office furniture, supplies, stationery, books, periodicals, maps, and all necessary expenses therefor shall be audited and paid as other State expenses are audited and paid. The commission may hold sessions and maintain offices at places other than the Capitol in its discretion for the more convenient and efficient performance of the duties imposed upon it by law, and shall upon its request be provided by the county court of any county in the State with suitable room or rooms for offices and hearings. The commissioners, upon the direction of the commission shall be entitled to secretary, clerk, stenographer and other employees, traveling receive from the State their actual necessary expenses while traveling on the business of the commission. Such expenditures shall be sworn to by the person who incurred the expense, and approved by the commission. [L. 1911, c. 279. p. 508, § 78.]

Compare Wisc., § 1797*m*-106.

§ 557a. Qualifications of Commissioners—Removal—Interest in Railroads Forbidden—Oath and Bond.

The Governor, Secretary of State, and State Treasurer may, at any time, remove any commissioner, appointed by them,

for inefficiency, neglect of duty, or malfeasance in office. Before such removal they shall give such commissioner a copy of the charges against him, and shall fix the time when he can be heard in his own defense, which shall not be less than ten days thereafter, and such hearing shall be open to the public. If he shalll be removed, the Governor, Secretary of State, and State Treasurer shall file in the office of the Secretary of State a complete statement of all charges made against such commissioner, and their finding thereon, with a record of the proceedings. Such power of removal shall be absolute, and there shall be no right to review of the same in any court whatsoever.

No person so appointed or elected shall be pecuniarily interested in any railroad, common carrier or public utility in this State or elsewhere, and if any such commissioner shall voluntarily become so interested, his office shall *ipso facto* become vacant; and if he shall become so interested otherwise than voluntarily he shall, within a reasonable time, divest himself of said interest; failing to do so his office shall become vacant.

No commissioner, nor the secretary, shall hold any other office or position of profit, or pursue any other business or vocation, or serve on or under any committee of any political party, but shall devote his entire time to the duties of his office.

Before entering on the duties of his office, each of said commissioners shall take and subscribe to an oath or affirmation to support the Constitution of the United States, and of this State, and to faithfully and honestly discharge the duties of such office of commissioner; and that he is not pecuniarily interested in any railroad in this State or elsewhere, or in any common carrier, or in any corporation, company, or association of individuals owning, operating, managing or controlling any plant or equipment in this State or elsewhere for the conveyance of telegraph or telephone messages, or for the transportation of persons or property by street railroad, or for the production, transmission, delivery or furnishing of heat, light, water or power, nor in the stock, bonds, securities, earnings or contracts of any thereof, and that he holds no other office of profit, nor any position under any political committee or party; which oath or affirmation shall be filed in the office of the Secretary of State. [L. 1907, c. 53, p. 68, § 2; L. O. L. § 6876; L. 1911, c. 279, p. 508, § 79.]

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